

**ASSEMBLY BILL**

**No. 1630**

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**Introduced by Assembly Member Klehs**

February 22, 2005

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An act to amend Sections 18622 and 19057 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1630, as introduced, Klehs. Administration of taxes: notice of deficiency assessment.

Existing law requires an individual taxpayer to notify the Franchise Tax Board of any change in the amount of gross income or deductions, as reported on the individual's federal tax return, within 6 months of the final determination, as defined, of that change, unless the change does not increase the amount of California income tax due. Existing law, in the case where the Internal Revenue Service audits a taxpayer, also allows the Franchise Tax Board, without regard to the statute of limitations, to issue a proposed assessment increasing state tax on the basis of the final federal determination and the taxpayer's failure to notify the Franchise Tax Board of that change.

This bill would clarify that taxpayers are required to report federal adjustments that occur after the 4-year statute of limitations for mailing proposed assessments has expired, would make legislative findings and declarations as to the intent of those modifications, and would declare that the modifications serve to clarify existing law.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 18622 of the Revenue and Taxation Code is amended to read:

18622. (a) If any item required to be shown on a federal tax return, including any gross income, deduction, penalty, credit, or tax for any year of any taxpayer is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in gross income or deductions, that taxpayer shall report each change or correction, or the results of the renegotiation, within six months after the date of each final federal determination of the change or correction or renegotiation, or as required by the Franchise Tax Board, and shall concede the accuracy of the determination or state wherein it is erroneous. For any individual subject to tax under Part 10 (commencing with Section 17001), changes or corrections need not be reported unless they increase the amount of tax payable under Part 10 (commencing with Section 17001) for any ~~year~~ year, *determined without regard to the application of any statute of limitations for mailing any notice of proposed deficiency assessment.*

(b) Any taxpayer filing an amended return with the Commissioner of Internal Revenue shall also file within six months thereafter an amended return with the Franchise Tax Board which shall contain any information as it shall require. For any individual subject to tax under Part 10 (commencing with Section 17001), an amended return need not be filed unless the change therein would increase the amount of tax ~~payable~~ under Part 10 (commencing with Section 17001) for any ~~year~~ year, *determined without regard to the application of any statute of limitations for mailing any notice of proposed deficiency assessment.*

(c) Notification of a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or renegotiation of a contract or subcontract with the United States that results in a change in any item or the filing of an amended return must be sufficiently detailed to allow computation of the resulting California tax

1 change and shall be reported in the form and manner as  
2 prescribed by the Franchise Tax Board.

3 (d) For purposes of this part, the date of each final federal  
4 determination shall be the date on which each adjustment or  
5 resolution resulting from an Internal Revenue Service  
6 examination is assessed pursuant to Section 6203 of the Internal  
7 Revenue Code.

8 SEC. 2. Section 19057 of the Revenue and Taxation Code is  
9 amended to read:

10 19057. (a) Except in the case of a false or fraudulent return  
11 and except as otherwise expressly provided in this part, *including*  
12 *the provisions of Sections 19059 and 19060 relating to federal*  
13 *adjustments*, every notice of a proposed deficiency assessment  
14 shall be mailed to the taxpayer within four years after the return  
15 was filed. No deficiency shall be assessed or collected with  
16 respect to the year for which the return was filed unless the  
17 notice is mailed within the *later of the* four-year period or the  
18 period otherwise provided, *including the extended periods*  
19 *provided by Sections 19059 and 19060, relating to federal*  
20 *adjustments*. For purposes of this chapter, the term “return”  
21 means the return required to be filed by the taxpayer and does not  
22 include a return of any person from whom the taxpayer has  
23 received an item of income, gain, loss, deduction, or credit.

24 (b) The running of the period of limitations provided in  
25 subdivision (a) on mailing a notice of proposed deficiency  
26 assessment shall, in a case under Title 11 of the United States  
27 Code, be suspended for any period during which the Franchise  
28 Tax Board is prohibited by reason of that case from mailing the  
29 notice of proposed deficiency assessment and for 60 days  
30 thereafter.

31 (c) Where, within the 60-day period ending on the day on  
32 which the time prescribed in this section for the assessment of  
33 any tax imposed under Part 10 (commencing with Section 17001)  
34 or Part 11 (commencing with Section 23001) for any taxable year  
35 would otherwise expire, the Franchise Tax Board receives a  
36 written document, other than an amended return or a report  
37 required by Section 18622, signed by the taxpayer showing that  
38 the taxpayer owes an additional amount of that tax for that  
39 taxable year, the period for the assessment of an additional  
40 amount in excess of the amount shown on either an original or

1 amended return shall not expire before the day 60 days after the  
2 day on which the Franchise Tax Board receives that document.

3 (d) If a taxpayer determines in good faith that it is an exempt  
4 organization and files a return as an exempt organization under  
5 Section 23772, and if the taxpayer is thereafter held to be a  
6 taxable organization for the taxable year for which the return is  
7 filed, that return shall be deemed the return of the organization  
8 for the purposes of this section.

9 (e) *If the date of a final federal determination, or the date of*  
10 *filing an amended federal tax return with the Commissioner of*  
11 *Internal Revenue, occurs after the expiration of the period*  
12 *prescribed in this section for mailing a notice of proposed*  
13 *deficiency assessment, then a notice of proposed deficiency*  
14 *assessment resulting from the change, notwithstanding any other*  
15 *provisions that would otherwise bar the mailing of the notice of*  
16 *the proposed deficiency assessment, may be mailed to the*  
17 *taxpayer as follows:*

18 (1) *Within the period specified in Section 19059, in the case*  
19 *where the change, correction, or amended return is timely*  
20 *reported.*

21 (2) *Within the period specified in Section 19060, in the case*  
22 *where the change, correction, or amended return is either not*  
23 *reported or reported after the required reporting period.*

24 SEC. 3. The Legislature finds and declares that the  
25 amendments to Sections 18622 and 19057 made by this act do  
26 not constitute a change in, but are declaratory of, existing law  
27 and shall apply to any taxable year beginning before, on, or after  
28 the date this act takes effect. The Legislature further finds and  
29 declares that the amendments made by this act are necessary for  
30 the public purpose of effectuating the Legislature's intent that  
31 taxpayers report federal adjustments that occur after the normal  
32 statute of limitations for mailing any notice of proposed  
33 deficiency assessments has expired.